

Exhibit 2
OAP File # _____
OFFICE OF ADMINISTRATIVE PROCEDURE

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

JAMES PAUL McDONALD, M.D.,

Respondent.

NO. D-962

OLA 13129

DECISION

The attached Proposed Decision of the Medical Board District Review Committee, District II, is hereby adopted by the Board of Medical Examiners as its decision in the above entitled matter.

This decision shall become effective on the 15th day
of FEBRUARY, 19 67.

IT IS SO ORDERED this 17th day of JANUARY,
19 67.

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF CALIFORNIA

BY /s/ SHELBY M. HICKS, M.D.
SHELBY M. HICKS, M.D.
Secretary-Treasurer

LBT:em

EXHIBIT A

BEFORE THE BOARD OF MEDICAL EXAMINERS.

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

JAMES PAUL McDONALD, M.D.,
Respondent.

NO. D-962

OLA 13129

PROPOSED DECISION

This matter came on regularly for hearing before the Medical Board District Review Committee, District II, at Los Angeles, California, on December 14, 1966, at the hour of 9:00 a.m. Members of the Committee, John B. Dillon, M.D., Richard W. Eells, M.D., Alfred J. Murrieta, M.D., and A. Allan Witlin, M.D., Vice Chairman, constituting a quorum of the Committee were present. Leon B. Traub, Hearing Officer, assigned by the Office of Administrative Procedure, presided. Thomas C. Lynch, Attorney General, by John M. Huntington, Deputy Attorney General, appeared on behalf of the Board of Medical Examiners. The respondent appeared in person and was further represented by his attorney, Patrick B. Phelan.

A motion to amend the Accusation by substituting the numerals "2361" in the place of "2371" after the word "section" in line 8 of page 2 of the Accusation was granted.

The District Review Committee, having heard evidence both oral and documentary, and the matter having been submitted, now proposes the following decision and finds the following facts:

I

At the time of executing and filing the Accusation, Wallace W. Thompson was, and now is, the Executive Secretary of the Board of Medical Examiners of the State of California (hereinafter Board), and performed said acts in his official capacity and not otherwise.

II

James Paul McDonald, M.D. (hereinafter respondent), was heretofore issued a physician's and surgeon's certificate by the

Board, and at all times herein mentioned, except as otherwise specified, respondent was, and now is, licensed to practice medicine and surgery in the State of California.

III

On December 15, 1965, the respondent, a male person, in a public restroom located at the foot of Granada Avenue, in the City of Long Beach, California, and in the open view of another male person (who was a Police Officer of the City of Long Beach in plain clothes) masturbated his erected penis while that Police Officer was in that same restroom and in the presence of the respondent.

IV

The Police Officer observing the acts of the respondent as delineated in Finding III, contends that the respondent also solicited the former to engage in a lewd and lascivious act, namely to engage in an act of oral copulation upon the penis of the respondent. The respondent denies that solicitation and contends that the Police Officer misinterpreted the respondent's remarks.

V

As a result of the conduct of the respondent delineated in Finding III, the respondent was arrested, charged with a violation of Section 650½ of the Penal Code and on January 14, 1966, in those proceedings entered in the Municipal Court of Long Beach Judicial District, County of Los Angeles, State of California, No. M 74109, upon his plea of guilty, the respondent was convicted and sentenced to pay a fine of \$150.00 plus \$16.00 penalty assessment. The respondent paid the fine and the assessment.

VI

The offense delineated in Finding V was a misdemeanor at the time the conviction was rendered, and the respondent was convicted of an offense involving moral turpitude.

* * * * *

Pursuant to the foregoing findings of fact, the District Review Committee, District II, of the Board of Medical Examiners, makes the following determination of issues:

I

The respondent is guilty of unprofessional conduct in that:

- (a) He committed an act of gross immorality in violation of Section 2361(d) of the Business and Professions Code.
- (b) He was convicted of an offense, a misdemeanor involving moral turpitude, in violation of the provisions of Section 2383 of the Business and Professions Code.

II

Grounds to discipline the license of the respondent exist under the provisions of Sections 2360 and 2361 of the Business and Professions Code.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The license to practice medicine and surgery, and the physician's and surgeon's certificates reciting that license, heretofore issued to respondent, James Paul McDonald, M.D., is hereby revoked; provided, however, that execution of this order of revocation is hereby stayed, and the respondent is placed on probation for a period of five (5) years from the effective date of this order upon the following terms and conditions:

1. The respondent shall obey all laws of the United States, of the State of California, and of all other states, and of all of their political subdivisions (minor traffic offenses excepted), including but not limited to the provisions of the laws relating to the practice of medicine and surgery, and the rules and regulations of the Board of Medical Examiners.

2. The respondent shall procure an independent psychiatric evaluation from three qualified psychiatrists, of his own choice, and at his own expense, if any, and he shall permit himself to be examined by those three psychiatrists, and he shall see to it that their reports of evaluation of the psychiatric condition of the respondent be forwarded to the Board of Medical Examiners of the State of California

and received by the latter within six (6) months of the effective date of this decision.

3. If a majority of the psychiatric evaluation reports indicate a need or desirability of psychiatric treatment, respondent shall promptly undergo and continue said treatment by a qualified psychiatrist of his own choice until discharged by the latter as being sufficiently rehabilitated to be relieved of further treatment.

4. The respondent shall further see to it that if such treatment be required, or deemed advisable by a majority of the examining psychiatrists, that the board of Medical Examiners shall be notified by written evidence in the form of a letter or report from the treating psychiatrist which shall be delivered to the Board of Medical Examiners at the beginning of treatment, within ten (10) days after that beginning, as well as of the discharge from such treatment, within ten (10) days after that discharge.

I hereby submit the foregoing which constitutes the Proposed Decision in the above-entitled matter, as a result of the Hearing had before the Committee, Leon B. Traub, Hearing Officer of the State of California, presiding, on December 14, 1966, at Los Angeles, California, and recommend its adoption as the decision of the Board of Medical Examiners.

A. Allan Witlin M.D.

DATED: December 19, 1966

A. ALLAN WITLIN, M.D., Vice Chairman
District Review Committee, District II

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5
6
7

8 BEFORE THE BOARD OF MEDICAL EXAMINERS
9 OF THE STATE OF CALIFORNIA

07-14-66

05-1966-590556

10
11 IN THE MATTER OF THE ACCUSATION
12 AGAINST:

NO. D-462

A C C U S A T I O N

13 JAMES PAUL McDONALD, M.D.,

14 Respondent.

15 COMES NOW WALLACE W. THOMPSON, the complainant herein,
16 and alleges as follows:

17 1. That at the time of executing and filing the
18 within pleading, the complainant herein was, and now is, the
19 Executive Secretary of the Board of Medical Examiners of the
20 State of California (hereinafter Board), and that complainant
21 performed said acts in his official capacity and not other-
22 wise.

23 2. That JAMES PAUL McDONALD, M.D. (hereinafter
24 respondent), was heretofore issued a physician's and surgeon's
25 certificate by the Board, and at all times herein mentioned,
26 except as otherwise specified, respondent was, and now is,
27 licensed to practice medicine and surgery in the State of
28 California.

29 3. That at all times hereinafter mentioned, sections
30 2360 and 2361 of the Business and Professions Code authorized
31 the Board to take action against the holder of a physician's

1 and surgeon's certificate who is guilty of unprofessional con-
2 duct.

3 4. That at all times hereinafter mentioned unprofes-
4 sional conduct has been defined in section 2361, subsection (d)
5 of the Business and Professions Code as conduct involving gross
6 immorality.

7 5. That respondent has been guilty of unprofessional
8 conduct as defined in said section 2371, subsection (d) of the
9 Business and Professions Code in that on or about December 15,
10 1965, in a public restroom located at the foot of Granada, in
11 Long Beach, California, and in open view, respondent masturbated
12 his private parts and solicited another male to engage in lewd
13 and lascivious conduct.

14 6. That the facts alleged hereinabove in paragraph
15 5 also constitute grounds for unprofessional conduct as defined
16 in section 2361, subsection (e), in that said acts involve moral
17 turpitude.

18 7. That at all times hereinafter mentioned unprofes-
19 sional conduct has been defined in section 2383 of the Business
20 and Professions Code as the conviction of any offense involving
21 moral turpitude; that said section also provides that the record
22 of conviction shall be conclusive evidence of the fact that the
23 conviction occurred; that said section further provides that
24 the Board may inquire into the circumstances surrounding the
25 commission of the crime in order to fix the degree of discipline
26 or to determine if such conviction is of an offense involving
27 moral turpitude.

28 8. That respondent has been guilty of unprofessional
29 conduct as defined in said section 2383 of the Business and
30 Professions Code in that respondent has been convicted of an
31 offense involving moral turpitude, as more particularly alleged
32 hereinafter:

1 (a) That on or about January 14, 1966, in the
2 Municipal Court of Long Beach Judicial District,
3 County of Los Angeles, State of California, in a
4 proceeding entitled, "People of the State of
5 California v. JAMES PAUL MC DONALD," No. M 74109,
6 respondent was convicted, upon his plea of guilty,
7 of a violation of section 650-1/2 of the Penal Code
8 (conduct outraging public decency), a misdemeanor
9 occurring on December 15, 1965; that as a result of
10 said conviction respondent was ordered to pay a fine
11 of \$150.00.

12 (b) That the facts and circumstances surround-
13 ing the commission of said crime are as follows:
14 That on or about December 15, 1965, in a public
15 restroom located at the foot of Granada, in Long
16 Beach, California, and in open view, respondent
17 masturbated his private parts and solicited another
18 male to engage in lewd and lascivious conduct.

19 WHEREFORE, the complainant prays that the Board of
20 Medical Examiners hold a hearing on the matters alleged herein
21 and following said hearing take such disciplinary action as is
22 provided in section 2372 of the Business and Professions Code,
23 on each of the charges proven, and take such other and further
24 action as may be proper.

25 DATED: This 14th day of July, 1966.

26
27
28 Wallace W. Thompson
29 WALLACE W. THOMPSON, Executive Secretary
Board of Medical Examiners of the State
of California Complainant.

30 HL:ls
ADM LA
31 66-742